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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CR No. 07-0802 VRW
	)	
Plaintiff,	)	UNITED STATES' SENTENCING
	)	MEMORANDUM
v.	)	
	)	Hearing Date: August 7, 2008
CHARLES LEE REDDEN, JR.,	)	Time: 2:00 p.m.
	)	Judge: Hon. Vaughn R. Walker
Defendant.	)	

**I. INTRODUCTION**

On December 18, 2007, a grand jury indicted defendant Charles Lee Redden, Jr., charging him with escaping from Bureau of Prisons ("BOP") custody on November 9, 2007 in violation of 18 U.S.C. § 751(a) and 4082(a). The defendant's underlying sentence was for making a Biological Weapons Threat in violation of 18 U.S.C. §175 (a).

On March 20, 2008, the defendant entered an open plea of guilty to the indictment. There

1 is no plea agreement in this matter. The defendant admitted that he was in BOP custody after he  
2 was transferred from a federal prison to a halfway house in San Francisco on November 1, 2007  
3 to finish his sentence for a felony conviction. He admitted that on November 9, 2008, he  
4 knowingly and voluntarily left the halfway house without permission, and willfully failed to  
5 return even though he was not scheduled for release. The defendant also acknowledged that he  
6 was satisfied with the advice he received from advisory counsel. Defendant also admitted and  
7 affirmed his knowing waiver of his right to counsel and asserted that his *Faretta* hearing before  
8 Magistrate Judge Nandor Vadas was valid.

## 9 **II. LEGAL STANDARD AT SENTENCING**

10  
11 Under Ninth Circuit case law, the Court should impose a sentence sufficient, but not  
12 greater than necessary, to reflect the purposes of sentencing that Congress identified in 18 U.S.C.  
13 § 3553(a)(2). *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008). The purposes identified  
14 in § 3553(a)(2) are: to reflect the seriousness of the offense, promote respect for law and provide  
15 just punishment for the offense; to afford adequate deterrence; to protect the public; and to  
16 provide the defendant with needed educational or vocational training, medical care, or other  
17 correctional treatment. *Carty*, 520 F.3d at 991; 18 U.S.C. § 3553(a)(2)(A)-(D).

18 The Court should begin the process of determining an appropriate sentence by  
19 determining the correct guidelines range. *Carty*, 520 F.3d at 991. Once the Court determines the  
20 guidelines range, it should use that range as the starting point and the initial benchmark for the  
21 sentence. *Id.* The Court should keep the guidelines range “in mind throughout the process.” *Id.*  
22 The Court should allow the parties to argue for a sentence they believe is appropriate and  
23 consider the factors identified in 18 U.S.C. § 3553(a). *Id.*

24 If the Court imposes a sentence outside the guidelines range, it should ensure that its  
25 justification for deviating from the range is sufficiently compelling to support the degree of  
26 variance in the sentence that it imposes. *Id.* The Court should make an individualized  
27 determination based on the facts of each case. *Id.* The Court, however, is not required to raise  
28 every possible relevant issue sua sponte. *Id.* Finally, the Court should explain sufficiently the

1 sentence that it imposes to allow meaningful appellate review. *Id.* at 992.

### 2 **III. 15 MONTHS IMPRISONMENT IS AN APPROPRIATE SENTENCE**

#### 3 **A. The Correct Guidelines Range Is 15-21 Months In Prison**

4 The United States and the U.S. Probation Office agree that the following sentencing  
5 guidelines calculation is correct:

6	Base offense level – USSG §2P1.1(a)(1):	13
7	Escape was from a halfway house – USSG §2P1.1(b)(3):	-4
8	<u>Acceptance of responsibility – USSG §3E1.1(a):</u>	<u>-2</u>
9	Total Offense Level:	7

10  
11 The Probation Office found that the defendant's correct criminal history category was a  
12 CHC-VI. (PSR ¶ 48). Therefore, the Defendant's sentencing range under the Sentencing  
13 Guidelines is 15-21 months imprisonment.

#### 14 **B. A Prison Sentence Of 15 Months Satisfies The 3553 Factors**

##### 15 **1. 15 Months Is Appropriate Considering The Nature And Circumstances Of 16 The Offense, And The Defendant's History And Characteristics – 3553(a)(1)**

17 Although the defendant's difficult childhood and his affliction with Borderline  
18 Personality Disorder and Polysubstance abuse weigh in favor of leniency, the defendant's  
19 criminal history, as well as his history of feigning mental illness warrant a sentence within the  
20 guidelines range. While the United States agrees that the Probation Office's recommendation of  
21 18 months incarceration is warranted, given the defendant's continuous incarceration over the  
22 past 16 years, the need for him to address his substance abuse issues, as well as the fact that the  
23 defendant's chance of success in the community will require a slow transition to society, it might  
24 be more appropriate for the defendant to begin the transition sooner rather than later. The  
25 defendant has recently been accepted into the New Bridge Foundation program which can assist  
26 the defendant with his drug addiction. Furthermore, placement to a halfway house towards the  
27 end of a 15-month sentence will once again give the defendant the opportunity to be placed in a  
28 structured environment that will allow him to address his vocational and psychological issues

1 and begin his inevitable transition back to society. A 15-month sentence should also provide a  
2 sufficient deterrence for him from walking away from the facility again before completing his  
3 sentence. Therefore, the United States recommends a sentence of 15 months incarceration.

4 **2. 15 Months Is Necessary To Promote Respect For The Law And To Deter**  
5 **Future Escapes From Halfway Houses – 3553(a)(2)(A)-(B)**

6 Unlike prisons, halfway houses are not as secure; inmates can escape easily by walking  
7 away, as this defendant did. The lack of security leads many defendants serving sentences in  
8 halfway houses to believe that escaping from a halfway house is not a serious crime. However,  
9 defendants who escape from halfway houses force law enforcement authorities to waste valuable  
10 resources by conducting arrest operations that are dangerous to officers, dangerous to the escaped  
11 defendant, and dangerous to innocent third parties. A sentence of 15 months will discourage this  
12 defendant from escaping from a halfway house at the end of his next prison sentence. This factor  
13 is particularly important for this defendant who will need a controlled and structured  
14 environment after serving a long federal prison sentence to make a successful transition back into  
15 society. A term of imprisonment will also deter other inmates from escaping from halfway  
16 houses when they learn that this defendant received 15 months for walking out of a halfway  
17 house.

18 **3. 15 Months Is Necessary To Protect The Public From The Defendant –**  
19 **3553(a)(2)(C)**

20 The defendant has previously been convicted of making a biological weapons threat. The  
21 defendant also has a history of sending threatening letters to federal judges and other public  
22 officials. A sentence of 15 months will assure that the public is protected from the defendant, but  
23 will also allow the defendant to begin the slow transition to society and receive treatment for his  
24 substance abuse a little sooner in order to assure that he will eventually make a successful  
25 transition back to society.

26 **4. 15 Month Sentence Will Provide the Defendant with Needed Educational or**  
27 **Vocational Training, Medical Care, and Correctional Treatment.**

28 Defendant Redden has no employment history since he has been incarcerated since 1992

1 and has been diagnosed with Borderline Personality Disorder and Polysubstance abuse. A 15-  
2 month term of incarceration will allow the defendant to stay in a structured environment, receive  
3 the psychiatric therapy and medicine he needs, and to receive additional educational and  
4 vocational training necessary for a successful transition back to society. A 15-month term will  
5 also allow the defendant to begin his supervised release much sooner and to partake in the New  
6 Bridge Foundation program to treat his drug addiction.

7  
8 **IV. CONCLUSION**

9 The government agrees that an 18-month sentence as recommended by the Probation  
10 Office is warranted. However, the United States recommends that a 15-month period of  
11 incarceration would be sufficient punishment for the defendant's crime and could improve the  
12 defendant's chances of making a successful transition back to society since it will allow the  
13 defendant to be placed at a halfway house and subsequently receive treatment at the New Bridge  
14 Foundation program for his addiction sooner rather than later.

15  
16 DATED: July 28, 2008

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United States Attorney

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19 /s/  
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Special Assistant United States Attorney  
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